

REMARKS

After entry of this amendment, claims 1-24 are pending. In the present Office Action, claims 1-10 and 19-24 were rejected under 35 U.S.C. § 101. Claim 7 was rejected under 35 U.S.C. § 112, second paragraph. Claims 1-24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Cabrera et al., U.S. Patent No. 6,535,998 ("Cabrera"). Applicant respectfully traverses these rejections and requests reconsideration.

Art Rejection

Applicant respectfully submits that claims 1-24 recite combinations of features not taught or suggested in the cited art. For example, claim 1 recites a combination of features including: "process one or more first keys of the second instance [of the database]...identifying one or more second keys of the second instance...to be preserved in the database subsequent to the restore operation... if the computer system's hardware is equivalent to hardware of a source of the backup data, process a third key, wherein the third key overrides a preservation."

The Office Action asserts that Cabrera anticipates the above highlighted features, citing 23-47. However, there is no discussion of databases in the cited section, nor any keys of instances of the database. The Office Action asserts that Applicant's use of the term "keys" is used in the flow of instructions during restore operations, therefore the Examiner equates Cabrera's conditional statements ("yes"/"no" determinations in Fig. 12) as equivalent to processing keys. See, e.g., Office Action, page 7, top paragraph. Applicant respectfully disagrees. To anticipate a claim, the prior art must teach or suggest each and every feature of the claim. Cabrera teaches neither databases, nor keys for those databases.

Applicant has nonetheless amended claim 1 to clarify the meaning of the term keys: "each key of a given instance of the database is an identifier used to access information in the given instance." Applicant can find no teaching for such keys anywhere in Cabrera.

Accordingly, Applicants respectfully submit that claim 1 is patentable over Cabrera. Claims 11 and 19 each recite combinations of features including features similar to those highlighted above. Thus, claims 11 and 19 are patentable over Cabrera as well. Claims 2-9 (dependent from claim 1), claims 12-18 (dependent from claim 11) and claims 20-24 (dependent from claim 19) recite additional combinations of features not taught or suggested in the cited art.

Section 112 Rejection

Claim 7 was rejected for lacking antecedent basis for "the fourth key". Applicant has amended claim 7 to depend from claim 6, as suggested in the Office Action. Accordingly, Applicant respectfully submits that the rejection is addressed.

Section 101 Rejection

Claims 1-10 and 19-24 were rejected as non-statutory. Specifically, the Office Action asserts that the computer accessible medium includes signals, which are non-statutory. Applicant respectfully submits that the computer accessible medium includes media accessible via transmission media such as signals, and thus is statutory. Nevertheless, Applicant has amended claims 1-10 and 19-24 to recite a computer accessible storage medium storing a plurality of instructions, which is clearly statutory.

CONCLUSION

Applicant submits that the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-21800/LJM.

Respectfully submitted,

/Lawrence J. Merkel/

Lawrence J. Merkel, Reg. No. 41,191
AGENT FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800

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